When is a word not just a word? An investigation into the dissonance and synergy between intention and understanding of the language of feedback in legal education.

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Abstract

When is a word not just a word? Can it be expected that using an everyday word or phrase when providing feedback means that it will be understood in the same way by different students at various stages of their academic journey? No matter how well intended feedback is, if a student is unable to correctly interpret the language used, it will prove to be of little use.

This research considers the dissonance between the intended message of written feedback on written assessments provided by law academics and the understanding of the recipient. The authors used survey method to obtain free text comments which identified common words and phrases used in legal academic feedback, along with academics' experiences and opinions of the effectiveness and purpose of feedback. The common words and phrases identified through this process were then incorporated into surveys undertaken by students at three of four levels of study. This stage of the research was completed by examining the qualitative data gathered, paying particular attention to the language of feedback itself. This was completed in the context of examining existing literature surrounding the general language of feedback, but focusing on specific legal language. The authors encountered some unexpected misinterpretations and some surprising synergy.

Introduction

When is a word not just a word? Can it be expected that using a word or phrase which is used in both academic and everyday language to provide written feedback on student's assessments will be understood in the same way by different people at different stages of their academic journey? It might be expected that if an academic uses complex or advanced technical language unique to a

particular discipline or are fond of the verbose when giving feedback, that students might not always take the meaning that was intended, but is the same true when a tutor relies on everyday language given its 'ordinary' dictionary meaning? If a student does not interpret the feedback language correctly then not only will they fail to fully benefit from that feedback, but they may alter their academic style incorrectly. This research investigated law students' understanding of a range of words and phrases ordinarily used in feedback in the context of legal study, specifically considering the actual words used by a group of law staff and the understanding of those words within several cohorts of their students. The primary focus of this article will be on the academic language used in feedback and the dissonance between the intended message of the academic and the understanding of the recipient.

For feedback to be effective it should help students reach their potential at whichever stage they are at in their education, it should identify strengths and also areas that can be improved and provide actionable steps to improve academic performance that must be understandable to be useful. Feedback is acknowledged to feed into student attainment[1] and the literature is replete with research concerning the timing and type of feedback given, the lack of student engagement and the feelings and emotions elicited from the process[2]. This paper however seeks to concentrate on one specific issue, namely the actual semantics of feedback itself, as 'the single most important feature of feedback is that it must be fully understood by the student so that they can use it to improve their learning.'[3]

The issue of feedback has been extensively researched but the focus is often on the methods of giving and receiving feedback and students' reactions to and use of feedback. The literature that exists in the specific area addressed in this study, 'the language of feedback', is more limited.

The aim of this study was to establish whether there was commonality of language used in written feedback by the academics within a single law school at a post-1992 University and, if there was, whether law students at three different levels of study had a shared understanding of the intended meaning of that language. At the institution considered in this study, written feedback is provided to students studying the LLB on all written submissions including coursework and examinations. Similarly, students on the LPC receive written feedback on all skills assessments, including oral skills, and on examinations. The academic staff approached to complete the survey ranged from those who were new to teaching in Higher Education to staff with in excess of 30 years teaching experience in Higher Education. It is not possible to identify how the answers of new and experienced staff differed as the survey was anonymous, however the results discussed later do

[1] John Hattie & Helen Timperley, /The Power of Feedback'(2007) Review of Educational Research 77(1), 81 – 112

[2] Melanie R. Weaver, 'Do Students Value Feedback? Student Perceptions of Tutors' Written Responses'(2006) Assessment & Evaluation in Higher Education 31(3) 381, 379-394
Katie Dunworth & Hugo Santiago Sanchez, 'Perceptions of quality in staff-student written feedback in higher education: a case study'(2016) Teaching in Higher Education 21:5, 581, 576-589 Sarita Robinson, Debbie Pope, & Lynda Holyoak, 'Can we meet their expectations? Experiences and perceptions of feedback in first year undergraduate students' (2013) Assessment & Evaluation in Higher Education 38:3, 262, 260-272 Richard Higgins, Peter Hartley and Alan Skelton, 'The conscientious consumer: reconsidering the role of assessment feedback in student learning' (2002)Studies in Higher Education 27(1): 55 – 56, 53–64

[3] Victor López-Pastor & Alvaro Sicilia-Camacho, 'Formative and shared assessment in higher education. Lessons learned and challenges for the future'(2017) Assessment & Evaluation in Higher Education 42:1, 84, 77-97

identify commonality. Similarly, the student survey was anonymous so it is not possible to identify any themes due to age, gender or ethnicity but it can be noted that the majority of students at the institution are 'home' students for whom English is the first language.

The problem with the general language used when giving feedback is that it may include terms that are vague or unclear[4], or may utilise the 'rhetorical conventions of academic discourse' which may be confusing to students unfamiliar with such conventions[5]. It is important to note that academics may provide what they genuinely feel to be extensive and helpful feedback, whereas in reality there are significant gaps between what academics believe feedback delivers and what students believe it delivers.[6]

Staff perception

Following discussions with teaching colleagues in the Law School it is evident that staff believe that their students understand the intention behind the terminology used in feedback and that the feedback will assist the student in understanding what was done well and the areas that could be improved. This view is an understandable one as it would seem counter intuitive for staff to spend time and resources providing feedback that they believed would not be useful to students. This is a belief endorsed by research which identifies that staff perceive that they are providing effective feedback more often than students perceive they are receiving effective feedback.[7] This study set out to examine whether the staff perception and the understanding of the students receiving the feedback achieves synergy because it cannot be assumed that the terminology has the intended meaning for the students.[8] Unfortunately, because students often do not seek clarification about the comments that have been made, lecturers may mistakenly believe that students understand the feedback when in fact they do not.[9] Hounsell et al refer to this understanding gap in these terms: 'some tutors appear to take it for granted that their expectations of academic work were relatively self-evident, that their feedback comments were transparent in their meaning and import, or that students would know how to remedy any shortcomings identified.'[10].

Staff and the inability to articulate the meaning of common feedback phrases

[4] Iris Vardi, 'The Relationship Between Feedback and Change in Tertiary Student Writing in the Disciplines' (2009) International Journal of Teaching and Learning in Higher Education 20(3), 351, 350 - 361

[5] David Hyatt, 'Yes, a very good point!': a critical genre analysis of a corpus of feedback commentaries on Master of Education assignments' (2005) Teaching in Higher Education 10:3, 340, 339-353

[6] Andy Adcroft, 'Speaking the same language? Perceptions of feedback amongst academic staff and students in a school of law' (2010) The Law Teacher 44:3, 260, 250 – 266

[7] Amish Parikh, Kylen McReelis and Brian Hodges, 'Student feedback in problem based learning: a survey of 103 final year students across five Ontario medical schools' (2001) Medical Education 35 632, 632 – 636; Emma Mulliner & Matthew Tucker, 'Feedback on feedback practice: perceptions of students and academics' (2017) Assessment & Evaluation in Higher Education 42:2, 280-281, 266-288; Andy Adcroft, 'The mythology of feedback' (2011) Higher Education Research & Development 30:4, 408, 405-419

[8] Richard Higgins, Peter Hartley and Alan Skelton, 'The conscientious consumer: reconsidering the role of assessment feedback in student learning' (2002) Studies in Higher Education 27(1): 62, 53–64

[9] Beth Crisp, 'Is it worth the effort? How feedback influences students' subsequent submission of assessable work' (2007) Assessment & Evaluation in Higher Education32:5, 577, 571-581

[10] Dai Hounsell, Velda McCune, Jenny Hounsell & Judith Litjens, 'The quality of guidance and feedback to students' (2008) Higher Education Research & Development 27:1, 56, 55-67

Perhaps more surprisingly, academics are often unable to further clarify statements that they have made when invited to do so. Lea and Street discovered that staff could identify a successful piece of work but could not describe how a particular piece of work 'lacked structure.'[11]. Lillis and Turner[12] noted that whilst lecturers all considered *argument* and *structure* to be key components of work, they were unable to specify what was meant by *argument* and *structure*. Indeed, a word as simple and apparently straightforward as 'structure' has been identified as the 'most obscure of all academic words.'[13] This is a common word used as feedback in the context of legal essay writing and it is essential that both giver and receiver of feedback are able to correctly articulate its meaning.

Academics were unable to further explain descriptive terms such as 'critically analyse' or 'evaluate.'[14] Indeed, it seems that

> 'faced with writing which does not appear to make sense within their own academic framework they are most likely to have recourse to what feels like familiar descriptive categories such as, 'structure and argument,' 'clarity,' and 'analysis', in order to give feedback on their student's writing. In reality their own understanding of these categories may be bound by their own individual, disciplinary perspective, but the categories may be less meaningful outside of this framework and therefore not readily understood by students unversed in that particular orientation of the discipline.'[15]

This may be particularly true in a discipline such as law, where students have often studied different subjects at A Level, meaning that the language of legal feedback has not become familiar. Some of the language used in feedback such as 'application of the law' will not have been encountered in a school or sixth form environment.[16]

Limited feedback, limited usefulness

Problems also arise where the comments made are limited in scope, with Lea and Street[17] citing comments such as 'explain' '?' or '!' to indicate criticism or disagreement. Time constraints may tempt the marker to make such comments, but it is unlikely that the recipient of '?' will be able to usefully incorporate this into future work or even understand what it was that prompted the '?' comment. In a study by Lea and Street[18], a student could not understand the comment, 'meaning?' on his text because 'for him both the meaning of what he was saying and the development of the argument in his own text was clear.'

Student perception

[11] Mary R. Lea and Brian V. Street, 'Student writing in higher education: An academic literacies approach' (1998) Studies in Higher Education23(2): 162, 157–72

[12] Theresa Lillis & Joan Turner Student, 'writing in higher education: contemporary confusion, traditional concerns' (2001) Teaching in Higher Education 6(1), 58, 57-68.

[13] Richard Bailey and Mark Garner, 'Is the feedback in higher education assessment worth the paper it is written on? Teachers' reflections on their practices' (2010) Teaching in Higher Education Vol. 15, no. 2: 193, 187-198

[14] Mary R. Lea and Brian V. Street (n17) 163.

[15] Mary R. Lea and Brian V. Street (n17) 163

[16] Carol Withey, 'Feedback engagement: forcing feed-forward amongst law students' (2013) The Law Teacher 47:3, 322, 319-344.

[17] Mary R. Lea and Brian V. Street (n17) 169

[18] Mary R. Lea and Brian V. Street (n17) 169

Unfamiliarity with academic terminology

It is acknowledged that if feedback provided to students is to be effective, the students must first understand the language used. The language must be understood by the student in the context within which it is used, how it is relevant to the work submitted and, as a result, the student should be equipped with the tools to use the feedback to improve future work and develop their learning strategies. [19]

Unfortunately, 'learners often feel bamboozled by academic terminology'[20] and such terminology is used not just in the teaching of a subject but also in providing feedback on performance. Students are often unable to interpret or understand the feedback 'because it is codified in the 'expert' language of academic disciplines'[21], or is ambiguous or cryptic.[22] As Crisp[23] acknowledges, 'students frequently do not understand comments that markers take to be self-evident'. Indeed, an implicit understanding of academic terminology is required in order to understand the language and students may only have a partial understanding of these terms[24]. Students who are unfamiliar with the terms of academic discourse will find it difficult to understand and make use of the feedback received[25]. Law as a discipline has a very specific relationship with language and it is therefore important that specific words and phrases are being utilised effectively, particularly where, as outlined above, these terms are new to the student who has previously never studied law.

.Students are unable to act on feedback that is not understandable, and so it must be unambiguous[26]. Many authors make use of the word 'decode' when describing the need for students to ascertain the meaning of comments made on their work[27]. This lack of understanding gives rise to a 'sense of estrangement from the language of feedback.'[28]

Burke[29] comments that whilst academics may easily write 'more analysis' or 'full reference required', 'sitting next to students as they attempted to act on such feedback revealed the complexity of our academic discourses.' Simply telling students that they had to write an introduction does not tell them what is required by an introduction and the statement 'cite authorities and sources' does not

[19] David Carless & David Boud, 'The development of student feedback literacy: enabling uptake of feedback' (2018) Assessment & Evaluation in Higher Education 43, no. 8, 1316, 1315 – 1325
[20] Naomi E. Winstone, Robert A. Nash, Michael Parker & James Rowntree, 'Supporting Learners' Agentic Engagement With Feedback: A Systematic Review and a Taxonomy of Recipience Processes' (2017a) Educational Psychologist52:1, 24, 17-37
[21] Janice Orrell, 'Feedback on learning achievement: rhetoric and reality' (2006) Teaching in Higher Education 11:4, 441, 441-456
[22] Paul Orsmond, Stephen J. Maw, Julian R. Park, Stephen Gomez & Anne C. Crook, 'Moving feedback forward: theory to practice' (2013) Assessment & Evaluation in Higher Education38:2, 241, 240-252
[23] Beth Crisp (n14) 573 – 574
[24] Richard Higgins, Peter Hartley & Alan Skelton, 'Getting the Message Across: The problem of communicating assessment feedback' (2001) Teaching in Higher Education 6:2, 272, 269-274.
[25] Melanie R. Weaver (n2) 380
[26] Emma Mulliner & Matthew Tucker (n16) 268
[27] Naomi E. Winstone, Robert A. Nash, Michael Parker & James Rowntree (n26) 18, Beth Crisp (n14), 574, Sarita Robinson, Debbie Pope & Lynda Holyoak (n2) 261 & 269
[28] Richard Bailey and Mark Garner (n20) 193.
[29] Deirdre Burke, 'Strategies for using feedback students bring to higher education' (2009) Assessment & Evaluation in Higher Education34:1, 42, 41-50

help the student to work out when these actions are necessary.[30] Similarly, providing feedback stating that a student's work is not sufficiently analytical does not necessarily mean that the student knows how to make the essay more analytical. [31]

In a study by Adcroft[32] in 2010 almost a third of students had only a limited understanding of what the most commonly used phrase in feedback meant. In this case the phrase was 'logical and coherent structure' which was used by 100% of staff and which was not understood by 31% of students. Seemingly innocuous phrases such as 'structure needs work' should be clearly explained.[33] It is clear that to an academic, such a phrase has obvious meaning, however to the student; the terminology used may have no clear meaning at all.[34]

In legal feedback, instructions such as 'apply' are often used as a shorthand to mean that the student should, having already explained the law, now fully explain how the law as previously outlined will impact upon the client to be advised. A difficulty arises where a student may read the words and feel that he or she understands their meaning when in fact their interpretation of the instruction is unclear.

Utilising misunderstood feedback

Whilst some students are aware of their lack of understanding in relation to feedback comments, others unfortunately do not realise that they misunderstand the comments.[35]This is of greater concern as a student who does not appreciate their lack of understanding will not seek clarification. A student may seek to inappropriately make use of misinterpreted comments.[36]. Higgins et al[37] identified that academic staff utilise the academic language used in assessment criteria when providing feedback on assessments, however, just 33% of the students who responded to their study stated that they understood that same language, leading to the conclusion that the lack of understanding could present a problem for students not solely due to the lack of understanding but, perhaps more critically, due to the misinterpretation of feedback and the consequent misutilisation of that feedback to the detriment of future work and that student's development.

It is therefore clear from the literature that there is a gap in understanding between what was intended by giving feedback and what was understood.[38] This linguistic comprehension gap[39] negates the usefulness of providing feedback.

Method

[30] Theresa Lillis & Joan Turner (n18) 58
[31] David J. Nicol & Debra Macfarlane-Dick (n29) 208
[32]Andy Adcroft (2010) (n 6) 263 - 264
[33] Sarah Nixon, Simon Brooman, Becky Murphy & Damien Fearon, 'Clarity, consistency and communication: using enhanced dialogue to create a course-based feedback strategy' (2017) Assessment & Evaluation in Higher Education 42:5, 818, 812-822
[34] Anders Jonsson, 'Facilitating productive use of feedback in higher education' (2013) Active Learning in Higher Education 14(1) 71, 63–76.
[35] Kate Chanock, 'Comments on Essays: Do students understand what tutors write?' (2000) Teaching in Higher Education 5:1 95, 95 – 105.
[36] Richard Higgins, Peter Hartley and Alan Skelton (n12) 57
[37] Richard Higgins, Peter Hartley and Alan Skelton (n12), 56 - 57
[38] Richard Bailey and Mark Garner (n19), 193.
[39] Richard Bailey and Mark Garner (n20) 193

The research was conducted using the survey method, consisting of two surveys, one directed at Law School academics and one administered separately to Levels 4, 5 and 7. Level 4 students are first year undergraduate, Level 5 are second year undergraduate and Level 7 students are postgraduate students who, in relation to this survey, are students on the Legal Practice Course. The decision to exclude Level 6 was taken on the basis of the institution's single survey period when students eligible for completing the National Student Survey at Level 6 are not to be included in any additional surveys. Surveys were created, completed and managed online using a free online platform. Requests for participation and instructions were emailed to all relevant parties within each target group. The email contained a link which directed each participant to the appropriate survey. The instructions that accompanied the survey made it clear that all responses to the surveys were voluntary and anonymous and it was made clear in the instructions that any or all questions could be answered or ignored. The instructions also identified that the responses required were in relation to the use of the words or phrases in feedback provided to the students on assessments undertaken while a student in the Law School. Ethical approval for all surveys was gained through following the University's internal ethical approval procedure.

The academic staff survey consisted of six open questions and two categorical response options designed to ascertain staff opinions on feedback and to discover the nature of the language commonly used when giving feedback. The survey was completed by just over 50% of academic staff (12) who were invited to participate by the authors on two occasions. The staff questionnaire included a number of additional questions concerning feedback, the author's interest was just in the language used but it was felt that incorporating the question on language into a wider survey on feedback would elicit a more natural response and the questions on feedback generally would provide further evaluative context. The qualitative data obtained from the responses to question two of the staff survey (the language specific question) was then incorporated into the student questionnaires. These all asked identical questions specifically designed to illicit student understanding of the terms identified by the staff as common words or phrases used by them in student feedback. The questions asked in the staff survey are attached at Appendix A. The data from the questions that do not relate to the specific language used in feedback will inform the authors' actions when compiling the feedback guidance handbook referred to later in this article.

The student questionnaire consisted of ten questions utilising the common words or phrases identified in the staff survey to gauge student understanding of these terms by means of open questions (Appendix B). Each year group was invited to participate on a voluntary basis on two separate occasions via email and on one occasion within a lecture. The response rate varied between the year groups; Level 4 was 20% (21 students), Level 5 was 15% (14 students) and Level 7 was 30% (17 students). The time taken to complete the survey also differed between the year groups with Levels 4 and 5 taking on average six minutes and Level 7 taking on average eight minutes. The authors noted that by the time students achieved Level 7 although they took 33% longer to complete the questionnaire their answers were more concise, suggesting they were more comfortable with academic language by that point.

The authors analysed the qualitative data obtained from the responses and common patterns and anomalies were identified and compared with the expectations of academic staff and the purpose and efficacy of feedback.

The key question for the purposes of designing the student questionnaire asked for an identification of common words or phrases that were frequently used when giving student feedback on all types of assessment undertaken by the students surveyed, the results were analysed and commonality noted. 82% used the word 'apply' which is expected as the ability to apply the law is a key requirement of legal education. Other common themes included 'analyse' (45%), 'grammar' (40%), 'too descriptive' (40%) and 'referencing' (30%). Specific phrases were obtained from the answers to this question and these formed the basis of the questions in the student questionnaire with a view to ascertaining commonality of understanding. Question three sought to establish whether abbreviations were used when providing feedback and 80% of respondents confirmed they did not use them. Where they were used only commonly accepted abbreviations for the subject were adopted (e.g. D for defendant or V for victim).

Following the outcome of the staff questionnaire the authors had detailed discussions with members of academic staff about the context within which the words and phrases are used. As a result of the outcome of these discussions further work will be undertaken to refine the definitions which will then be incorporated into the handbook to be used by staff and students mentioned later.

The majority of staff agreed that the intended use of the terms is as follows:

Apply

The students should apply the law to the facts, which means that in a problem-based scenario it is not sufficient to simply state the law, it is also necessary to explain how the law impacts on the specific facts presented and for the student to reach a conclusion based on that application. When answering an essay based question it is expected that the students will apply black letter law to the essay question.

Critically analyse

Staff discussions revealed that the ability to critically analyse required consideration of an issue from a variety of perspectives and utilising a range of sources to test a theory, agree with or contradict a position and reach a justified, supported conclusion. In essay questions, this would be evidenced by presenting all sides to a position and evaluating the validity of arguments before concluding; whereas in legal problem solving questions, this would require the ability to evaluate the area of law, including any current issues with its operation, before applying the law with evidence of an understanding of its wider context, such as proposed or potential areas of reform.

More depth

The answer makes only superficial use of the law and/or facts provided.

Limited

The answer does not address a sufficient number of the issues raised by the question or does not rely on a sufficient amount of case law, legislation, statistics or academic opinion to support arguments made.

Poorly structured

The answer does not follow a logical order.

Too descriptive

Whilst a certain amount of description is required to set the background of the argument being made, if an answer does not go on to analyse, evaluate or discuss as appropriate the answer will not be sufficiently rigorous.

Inappropriate Language

If the student is undertaking practical legal writing then the recipient of the correspondence will determine the appropriateness of the language used. For academic writing, the use of contractions, first person and informal language will not be appropriate, for example “he will go down for this.”

Too vague

The answer suggests that issues may be relevant but the answer lacks precision and does not explain how or why the issue is relevant based on the facts and/or case law (or statute) relied upon.

Omission

Key facts, case law or statute not included in the answer or issues raised by the question have been ignored.

Unsupported

Points made which, although possibly correct, are not supported by case law or statute with the result that the answer suggests it is merely the opinion of the student.

Results and Discussion - Students

Apply

The ability to apply the law is an essential legal skill in both academic and vocational legal contexts. Despite this, at Level 4, only 8% could accurately explain the term with just 1 student fully articulating the correct definition; 24% wrongly interpreted the term to mean ‘add’. By Level 5, 38% of students were able to demonstrate accurate understanding of the term although 31% also thought it meant to ‘add’ or ‘include’; 23% admitted that they had ‘no idea’ or were ‘not sure’ of the meaning and the remaining 8% provided various incorrect suggestions. Whereas by Level 7, 65% could correctly explain the term, however, even at this level 24% of students defined ‘apply’ as ‘use and the remaining 11% provided a variety of incorrect suggestions.

Critically analyse

The authors held a preconception that a phrase such as ‘critically analyse’ would prove more challenging, especially for Level 4 students, than other phrases which are used in more general parlance. However, 90% of Level 4 students were able to formulate a reasonable response to this question using comments such as, ‘a careful examination and evaluation’. At Level 5, although 3 students responded with, ‘no idea’, the remaining students (81% of respondents) were again able to accurately articulate the meaning of the phrase. The Level 7 students demonstrated a similar high

level of understanding of the phrase, with all but one accurately explaining (94%), utilising concise and accurate definitions such as, ‘evaluation’, ‘objective consideration’ and ‘critical dissection’.

More depth

100% of students at Level 4 and Level 5 were able to accurately explain this phrase. However, at level 7 88% could as two of the students could not provide an accurate explanation.

Limited

At Level 4 some students had difficulty understanding the word ‘limited’ in the context of academic feedback with some students referring instead to the literal interpretation of the word, for example, ‘a certain amount of time’ or ‘a certain amount of stock/product’. The remaining 62% however showed a good understanding with phrases such as, ‘there is more scope for expansion in what has been stated’. At Level 5 24% of students had difficulty interpreting the word with one articulating the opposite meaning as, ‘cut words out’. Another stated, ‘I would need to ask the lecturer for more information as limited is somewhat ambiguous’. By Level 7 95% of the students understood the phrase with only one student having ‘no idea’. The authors would consider ‘limited’ to be the most basic of words used in feedback and yet 17% of respondents across the three levels had no idea what ‘limited’ meant in an academic context but those same students were generally comfortable with the meaning of ‘critical analysis’.

Poorly structured

Level 4 students showed a complete understanding of the intending meaning of this phrase. Level 5 students also demonstrated an accurate understanding as did the Level 7 students.

Too descriptive

At Level 4, 45% of the students incorrectly defined the phrase as meaning too much detail or information rather than identifying it as meaning over reliance on reciting the law without application or explanation. By Level 5 the students showed an improved understanding but 29% still did not identify the need for application. By Level 7, whilst 41% still focused on quantity of information with only some understanding of the intended meaning and 17% not providing an accurate explanation, some students were able to give a very accurate definition such as, ‘providing information without proper analysis of that information’.

Inappropriate Language

The use of this phrase by legal academics providing feedback includes the lack of correct legal terminology, use of contractions and use of first person. However, 20% of Level 4, 21% of Level 5 and 12% of Level 7 students thought that feedback referring to this phrase would mean that profanity had been used. The remaining students did show understanding, to varying degrees, identifying that the phrase may refer to slang or that local words or phrases were not appropriate and, in one case, referred to the use of ‘text speak’.

Too vague

27% of students across all levels considered that 'too vague' simply meant that more detail was needed rather than identifying that the answer was insufficiently focused. At Level 4 38% did not provide an accurate explanation, 29% at Level 5 and at Level 7 it was 18%. More precise interpretations included, 'a general and none specific answer' (Level 4), 'lacking specificity' and 'providing a generic explanation' (Level 7).

Omission

At Level 4 31% had no idea what this word meant in the context of academic legal feedback and a further 16% attempted to define the word but were unable to do so accurately. At Level 5 50% of the students admitted to having no idea as to the meaning of the word, however, at post graduate level (Level 7) only 6% of students could not articulate a correct meaning.

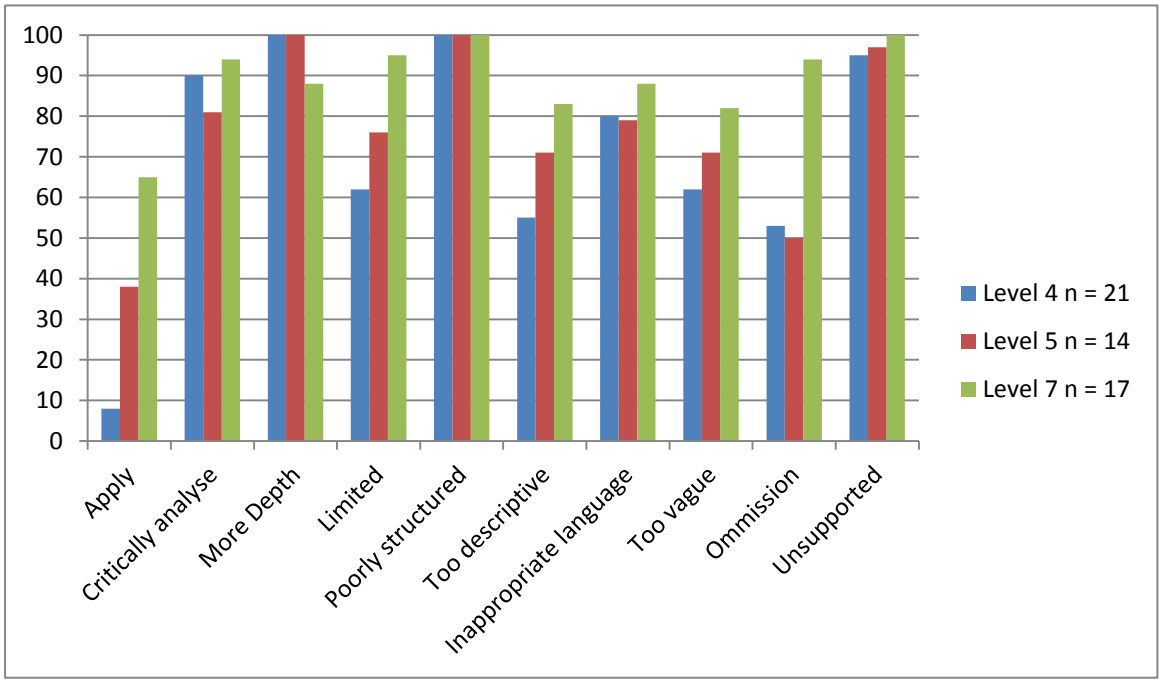
Unsupported

This was largely understood with Level 4 being 95%, Level 5 97% and at Level 7 100% of the answers provided understanding the phrase to mean that arguments must be supported by relevant case law and statute.

At the outset of this study the authors anticipated that the most problematic phrase or word of those presented to the students would be the phrase 'critically analyse'. However, the research identified that the students greatest difficulty was experienced with the very words and phrases that the authors anticipated would be the most commonly understood, specifically 'apply' and 'omission'. Two possibilities for the understanding of 'critically analyse' may be mooted, the first is, anecdotally, that in the academic context of the law school staff may be making a conscious attempt to explain phrases that they consider to be problematic whilst presuming students will have no difficulty with the words and phrases which the academic considers to be in common use. The second possibility may be that during further education, specifically A Level, the phrase is used commonly in assessment terminology allowing the students to develop a familiarity and understanding of the concept. Law as a discipline is relatively unusual in that it does not require a study of law prior to undertaking undergraduate study in law, as a result, the first time a student may be exposed to the idea of 'applying' the law to a given scenario may well be when entering undergraduate study.

The data from the student responses identifies a small improvement in understanding generally between Level 4 and Level 5, with a more significant improvement by the time the students reach Level 7. Level 7 answers tended to be more succinct and relevant rather than Level 4 which tended to be couched in less formal academic language. The authors cannot identify the reasons for this with any certainty but it is clear that the additional years spent in an academic environment has resulted in a greater level of understanding within the Level 7 cohort.

The graph below identifies the percentage of students at each Level who were able to provide an explanation that identified an element of accuracy in understanding.



As demonstrated by the graph, the word which students had most difficulty with was 'apply.' In terms of teaching law, this is the word that is perhaps the 'bread and butter' of feedback and the one that legal academics use most of all. At level four, the lack of understanding of the word is most concerning as it was not understood by 92% of students. The concern is further amplified by the knowledge that many students substituted an incorrect understanding of the word which indicates that they may proceed to act upon perceived, rather than actual feedback. Despite the issues discovered by other researchers concerning the word 'structure' (Fn 17 to 19, above), 'poorly structured' was fully understood by all participants in this survey.

Future research

In the light of the findings of this research the authors will be undertaking an action research project. This will be achieved by the means of the production of a feedback guide. Within the guide the authors will create a glossary of academic terminology commonly used in feedback. Each word or phrase will be defined and examples of the correct usage of the term will be given. This approach is obviously dependent upon the cooperation of the academics with the department in adopting a standardised approach to communicating common themes in relation to both assessment criteria and feedback. This will require an element of staff training to ensure a consistent approach specifically importing the scientific concept of controlled terminology which requires a parity of intended meaning when the same word or phrase is used by different staff for the same purpose.

Two versions of the feedback guide will be produced; one as described above will be aimed at the students. It is not intended that the student guide will be definitive in that there is the need to respect academic freedom when providing feedback which is appropriate to the assessment task and academic level of the student. In the same vein the staff handbook, whilst containing a list of common terminology, is not intended to prescribe the way that feedback is given, however it will highlight to academic staff a range of phrases that they can confidently adopt knowing that students

have accessible guidance to allow them to interpret the same. When considering the staff survey it is notable that the answers to the question requiring identification of common words or phrases used already demonstrated a high degree of commonality and staff and students will be further consulted as to the content of the proposed feedback guide.

The intention is the use of the feedback guide will provide a focus for staff to consider the words that they are using and whether they will impede the student's understanding or enhance their academic learning. Similarly it is intended that the student feedback guide will provide a conduit through which students may approach staff members for clarification of any terms that are unfamiliar or problematic.

Conclusion

As shown by our research, a significant number of students have problems understanding the meaning of the words and phrases adopted by law academics when providing feedback. 'Effective communication depends on shared assumptions, definitions, and understanding'[40] Lizzio and Wilson[41] note that, 'At the most fundamental level; if students are to make use of feedback they must first understand it.' When assisting staff and students to achieve a synergy of communication and interpretation, we need to provide an intervention that will 'ensure the lecturer's clarity of communication, but that [will] also apportion responsibility to students by better preparing them to understand common academic terminology'[42]. If synergy does not exist, the result may be that feedback will result in 'collective disillusionment' because feedback will be 'dominated by misunderstandings and mismatches'[43]. Carless[44] suggests that students and tutors should collaborate as partners in developing 'longer term approaches to the uptake of feedback messages'. Ensuring explicit use of 'common' feedback terminology during tutor instruction and feedback in seminars, with regular discussions around the meaning of the phrases, should result in the language pervading the student experience and ensure the continuous development of student understanding of academic language. This approach is recommended in the HEA Feedback toolkit[45] as one of the mechanisms through which student understanding of feedback can be improved. The wider implications for all law teachers may be that our students would benefit from a shift in focus from the when and how of feedback onto the specific language used. Not wanting to 'put the cart before

[40] (ENTWISTLE, N. (1984) Contrasting perspectives on learning, in: F. MARTON, D. HOUNSELL & N. ENTWISTLE (Eds) The Experience of Learning (Edinburgh, Scottish Academic Press), 1 cited in Richard Higgins, Peter Hartley and Alan Skelton (n12) 56

[41] Alf Lizzio & Keithia Wilson, 'Feedback on assessment: students' perceptions of quality and effectiveness' (2008) Assessment & Evaluation in Higher Education 33:3, 264, 263-275

[42] Naomi E. Winstone, Robert A. Nash, James Rowntree & Michael Parker, 'It'd be useful, but I wouldn't use it': barriers to university students' feedback seeking and recipience' (2017) Studies in Higher Education42:11, 2038, 2026-2041.

[43] Jane Rand, 'Misunderstandings and mismatches: The collective disillusionment of written summative assessment feedback' (2017) Research in Education97(1), 37, 33 – 48.

[44] David Carless, 'Feedback loops and the longer-term: towards feedback spirals' (2018) Assessment & Evaluation in Higher Education published online 5. 14th November 2018.

[45] HEA Feedback toolkit March 2013, p 21 https://s3.eu-west-2.amazonaws.com/assets.creode.advancehe-document-manager/documents/hea/private/resources/feedback_toolkit_whole1_1568036614.pdf accessed 30th January 2020

the horse' as students effective use of feedback can only flow from their accurate interpretation of the terminology used in academic discourse.

Appendix A

Staff survey

1. If you use abbreviations please include the meaning behind them? Text comment
2. Do you consider that students act on your feedback? Always/ sometime/ never/ don't know

Appendix B

Student survey

Q1 If your feedback included the word 'apply' what do you think this means?

Q2 If your feedback included the phrase 'critically analyse' what would you understand this to mean?

Q3 If your feedback included the phrase 'more depth' what would you understand this to mean?

Q4 If your feedback included the word 'limited' what would you understand this to mean?

Q5 If your feedback included the phrase 'poorly structured' what would you understand this to mean?

Q6 If your feedback included the phrase 'too descriptive' what would you understand this to mean?

Q7 If your feedback included the phrase 'inappropriate language' what would you understand this to mean?

Q8 If your feedback included the phrase 'too vague' what would you understand this to mean?

Q9 If your feedback included the word 'omission' what would you understand this to mean?

Q10 If your feedback included the word 'unsupported' what would you understand this to mean?